

September 26, 2016

**VIA ECFS**

Marlene H. Dortch  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation  
*Petition for Reconsideration of Declaratory Ruling and Request for Stay  
Pending Reconsideration of the National Consumer Law Center et al.*  
CG Docket No. 02-278

Dear Ms. Dortch:

On September 23, 2016, Steve Patterson, CEO of Broadnet Teleservices LLC (“Broadnet”) and Patrick Halley and the undersigned, both of Wilkinson Barker Knauer, LLP and outside counsel to Broadnet, met with Alison Kutler, Mark Stone, Kurt Schroeder, and Kristie Thornton of the Consumer and Governmental Affairs Bureau, and David Gossett, Richard Mallen, and Scott Noveck of the Office of General Counsel to discuss Broadnet’s opposition to the National Consumer Law Center *et al.*’s Petition for Reconsideration (“Petition”)<sup>1</sup> of the July 5, 2016 *Declaratory Ruling* in the above-captioned proceeding.<sup>2</sup>

Consistent with Broadnet’s opposition and reply comments in response to the Petition,<sup>3</sup> we explained that the *Declaratory Ruling* ensures that wireless-only citizens – a category that includes a disproportionate number of historically underrepresented persons – benefit from the same government engagement opportunities as their peers who continue to rely on wireline phones. We noted that while the benefits of the *Declaratory Ruling* are clear, so too are the

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<sup>1</sup> Petition for Reconsideration of Declaratory Ruling and Request for Stay Pending Reconsideration of the National Consumer Law Center *et al.*, CG Docket No. 02-278 (filed July 26, 2016) (“Petition”).

<sup>2</sup> See *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Declaratory Ruling, CG Docket No. 02-278, FCC 16-72 (rel. July 5, 2016) (“*Declaratory Ruling*”).

<sup>3</sup> See Opposition of Broadnet Teleservices, LLC, CG Docket No. 02-278 (filed Sept. 1, 2016); Reply Comments of Broadnet Teleservices, LLC, CG Docket No. 02-278 (filed Sept. 15, 2016).

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consequences of overturning it: Wireless-only citizens once again will be deprived of important opportunities to communicate with, inform, and be informed by their government.

We also noted that the record lacks any evidence whatsoever that NCLC's concerns regarding the implications of the *Declaratory Ruling* will come to fruition. Moreover, we explained that such fears are unfounded for several reasons. First, the *Declaratory Ruling* itself includes certain important limitations. Second, federal government entities have incentives not to allow conduct on their behalf that will frustrate and annoy citizens. Third, to the extent that concerns are ever raised, the relevant federal government bodies themselves, rather than the TCPA and the Commission, are best suited to respond directly to citizens' concerns and restrict calling activities made on their behalf. Finally, the Commission has already separately acted to restrict the calls made to collect a debt owed to or guaranteed by the United States, the calls seemingly of most concern.

We also explained that free-to-end-user ("FTEU") solutions for voice calls are not currently available in the marketplace, a fact acknowledged by proponents of such solutions.<sup>4</sup> We explained further that such solutions are not currently viable because of several business and technical hurdles that first would need to be overcome. Specifically, we noted that carriers would have to implement FTEU solutions, and may be hesitant to do so because of competitive concerns (*e.g.*, by necessarily disclosing information about their customers' calling plans). In addition, without verified caller ID, any calling party could spoof a reverse-billed number and effectively bill the owner of that number for their illegal calls. Thus, while some FTEU proposals may be viable, they likely only are after caller ID authentication is solved in some form.

Please do not hesitate to contact the undersigned with any questions.

Sincerely,

/s/ Joshua M. Bercu/  
Joshua M. Bercu

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<sup>4</sup> See, *e.g.*, Comments of Randall A. Snyder, CG Docket No. 02-278 (filed Sept. 13, 2016).